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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,871	04/16/2001	Mark Vange	CIRC025	5577
25235	7590	06/03/2005	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEENTH ST DENVER, CO 80202			EL HADY, NABIL M	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/835,871

**Applicant(s)**

VANGE, MARK

**Examiner**

Nabil M. El-Hady

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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1. Claims 1-31 are presented for examination.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 11, 25, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Aharoni et al. (US 6,014,694), hereinafter "Aharoni".
4. As per claim 1, Aharoni discloses the invention as claimed including a system for prioritizing communication in a shared bandwidth communication network comprising: an interface to the shared bandwidth communication network operable to transport data for a plurality of users ( component of server 18; and col. 8, lines 18-24 ); a front-end server coupled to the interface to select the rate and order at which data is supplied through the interface to the shared bandwidth communication network ( component of server 18; and col. 8, lines 8-12).
5. As per claim 11, the claim is rejected for the same reasons as claim 1 above. In addition, Aharoni discloses receiving a plurality of data transmission from a second communication system, each corresponding to a particular client (Figs. 1 and 15); queuing data in a plurality of

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sockets (214, Fig. 15); and communicating the data transmissions in a prioritized fashion to the shared bandwidth communication system (Fig. Fig. 1; and col. 8, lines 2-24).

6. As per claim 25, the claim is rejected for the same reasons as claims 1 and 11 above. In addition, Aharoni discloses a front-end-server comprising an interface to the shared bandwidth communication network (SENDER, Fig. 9); a second interface to a data network (RECEIVER, Fig. 2); data buffers operable to hold data for each of a plurality of clients (214, Fig. 15); and means for selectively apply data from the buffers to the interface to communicate the data to the shared bandwidth network while prioritizing some data over other (SENDER, CONTROLLER, Fig. 2; and Fig. 9).

7. As per claim 30, the claim is rejected for the same reasons as claims 1, 11, 25 above.

8. Claims 2-10, 12-24, 26-29, and 31 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabil M El-Hady whose telephone number is (703) 308-7990. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 31, 2005

A handwritten signature in black ink, appearing to read 'N. El-Hady', with a long, sweeping horizontal stroke extending to the right.

Nabil El-Hady, Ph.D, M.B.A.  
Primary Patent Examiner  
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